



FH
[REDACTED]

**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MGE/149997

PRELIMINARY RECITALS

Pursuant to a petition filed June 14, 2013, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Racine County Department of Human Services in regard to Medical Assistance, a hearing was held on August 19, 2013, at Racine, Wisconsin.

The issue for determination is whether the agency correctly terminated Petitioner's healthcare benefits and determined that he would only be eligible with a deductible of \$3,115.98.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street
Madison, Wisconsin 53703

By: Virginia Chabrier, Economic Support Specialist
Racine County Department of Human Services
1717 Taylor Ave
Racine, WI 53403-2497

ADMINISTRATIVE LAW JUDGE:

Mayumi M. Ishii
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Racine County.

2. On March 22, 2013, Petitioner's guardian, B.M., filed an application for Medicaid benefits on behalf of Petitioner, indicating he had been living in a nursing home/institution since January 28, 2013. Petitioner's guardian also requested backdated benefits. (Exhibits 5 and 7)
3. On March 28, 2013, the agency sent Petitioner's guardian a Notice of Proof Needed, requesting verification of Petitioner's assets in a savings account. The notice indicated that the proof was due by April 4, 2013. (Exhibit 9)
4. Petitioner was discharged from the nursing home on April 3, 2013 and returned to Shepherds Ministries, a community based residential facility. (Exhibit 6; Exhibit 11, pg. 8; testimony of Petitioner's guardian)
5. On April 5, 2013, the agency sent Petitioner's guardian a notice that his health care benefits would be ending effective May 1, 2013, because she did not provide the requested proof. (Exhibit 8)
6. On April 22, 2013, Petitioner's guardian filed another application for Medicaid benefits, on behalf of Petitioner. (Exhibit 3)
7. On April 29, 2013, the agency sent Petitioner a notice indicating that as of May 1, 2013, he was enrolled in the SLMB program and that as of February 1, 2013, he was enrolled in the Nursing Home Long-Term Care program. The notice further indicated that Petitioner's patient liability was \$1086.00 per month, effective February 1, 2013. (Exhibit 4)
8. On June 7, 2013, the agency sent Petitioner's guardian a notice that as of July 1, 2013, Petitioner's health care benefits would be ending, because his income was over the program limit. The notice further indicated that Petitioner could become eligible, if he met a \$3,115.98 deductible. (Exhibit 10)
9. Petitioner's guardian filed a request for fair hearing that was received by the Division of Hearings and Appeals on June 14, 2013. (Exhibit 1)
10. Petitioner's sole source of income is from Social Security Disability benefits, in the amount of \$1,131.00. (Exhibits 3 and 5)

DISCUSSION

Patient Liability Determination

A hearing officer can only hear cases on the merits if there is jurisdiction to do so. There is no jurisdiction if a hearing request is untimely. An appeal of a negative action by a county agency concerning MA must be filed within 45 days of the date of the action. Wisconsin Stat. § 49.45(5); Income Maintenance Manual § 3.3.1. The petitioner's appeal of the Patient Liability was filed on June 14, 46 days after the April 29, 2013 date of the action. Thus, it was untimely, and no jurisdiction exists for considering the merits of that issue.

July 1, 2013 Termination of Petitioner's Medicaid Benefits

Social Security income is considered when determining eligibility for healthcare/Medicaid. *Medicaid Eligibility Handbook (MEH)* §15.4.10. In determining eligibility there is a general deduction from reported income of \$20. *MEH* §15.3.8 *General Income Disregard*. So for Petitioner, is counted income would be \$1,131.00 Social Security Income - \$20.00 disregard = \$1,111.00.

The categorically needy income limit is \$557.11 + actual shelter costs up to \$236.67. *MEH* §39.4.1 - *EBD Assets and Income Table*. The medically needy income limit for a household of one is \$591.67. *Id.*

If an individual does not meet the categorically needy income limit, his income is compared to the medically needy income limit. If the individual's income falls between the two income limits, he is eligible for Medicaid. *MEH §24.1*

In the case at hand, it is unclear what Petitioner pays for shelter, because the letter from Shepherds Ministries does not breakdown what portion of the \$4,900 monthly fee is applied toward shelter only, nor how much of that shelter cost, Petitioner pays out of pocket. However, regardless of how much Petitioner actually pays in shelter costs, it is clear that his counted monthly income of \$1,111.00 is well over the maximum categorically needy income limit of \$793.78 (\$557.11 + actual shelter costs up to \$236.67) and the medically needy income limit of \$591.67.

Deductible Amount

"When a Medicaid applicant is ineligible for Medicaid solely because he has income that exceeds the Medicaid medically needy income limit, he can become eligible by meeting the Medicaid deductible." *MEH §24.2* "The Medicaid deductible is the group's net monthly income over the 6 consecutive months of the Medicaid deductible period." *Id.*; See *MEH §40.1*, Worksheet 6. "Excess monthly income" is defined as the amount of income above the medically needy income limit. *Id.*

In Petitioner's case, the deductible calculation should be as follows:

$$\$1111.00 \text{ net income} - \$591.67 \text{ medically needy income limit} \times 6 \text{ months} = \$3,115.98$$

Thus, the agency correctly determined Petitioner's deductible.

Has Petitioner Met the Deductible?

To be counted toward the deductible, a medical or remedial expense must meet all of the following conditions:

1. Be an expense for a member of the applicant/recipient's fiscal test group.
2. Meet the definition of a Medical or Remedial Expense under *MEH §24.7.1.1*
3. Meet one of the following four conditions:
 - a. Still be owed to the medical service provider sometime during the current deductible period.
 - b. Be paid or written off sometime during the current deductible period, although medical bills written off through bankruptcy proceedings are not allowed as a medical expense.
 - c. Be paid or written off sometime during the deductible period that immediately precedes and borders on the current deductible period. These bills can be used even if they were paid after the person met the deductible in the prior period.
 - d. Be paid or written off sometime during the three months prior to the date of application. This expense can only be used for the first deductible period.

MEH §24.7.1

Petitioner's guardian submitted the following documentation of Petitioner's outstanding medical bills:

1. A letter dated June 18, 2013, from Shepherds Ministry indicating that the cost of care there is \$4900 per month, which includes Case Management Services, Medical Support, Day Services, Assistance with ADLs, Transportation, Recreation, Business Office Support and 24

- hour supervision. The letter further indicates that Petitioner's family pays \$550.00 per month of those costs.
2. A bill from Aurora Health Care dated June 9, 2013 for services provided on May 16, 2013, in the amount of \$11.00.
 3. A bill from Bell Ambulance dated April 4, 2013, for services rendered on January 28, 2013 in the amount of \$197.34.
 4. A bill in from Health Dimensions Rehabilitation dated July 24, 2013, in the amount of \$143.00.
 5. A past due bill from Kindred Nursing and Rehabilitation dated June 30, 2013 for services rendered between January 28, 2013 and February 25, 2013 and again from March 6, 2013 and April 3, 2013 in the amount of \$2,468.00.
 6. A hospital bill from Wheaten Franciscan Healthcare dated July 20, 2013, in the amount of \$2,412.00.

(Exhibit 11)

With regard to the expenses at Shepherd's ministries, a portion of that would be an allowable remedial expense, but further verification would be required to determine how much of that expense is "out of pocket" and what portion of that expense falls under the definition of a remedial expense under MEH §24.7.1.1

The \$11.00 dollar Aurora Health Care bill is allowable, as it was for a doctor's appointment and is still owed. (Per MEH §24.7.1.1(1) medical expenses, those good and services prescribed by a professional medical examiner, are countable.)

The \$197.34 bill from Bell Ambulance is allowable because it was still either owed during the deductible period and per MEH §24.7.1.1(3) ambulance services are countable.

The \$143.00 from Health Dimensions Rehabilitation is allowable as a medical expense and it was owed, during the deductible period.

The \$2,468.00 bill from Kindred Nursing and Rehabilitation was owed during the deductible period and is countable as a medical expense.

The \$2,412 hospital bill was owed during the deductible period and is countable as a medical expense.

Thus, even if we don't count the remedial expenses from Petitioner's community based residential facility, he has met the deductible, because the remaining expenses are countable per MEH §§ 24.7.1 and 24.7.1.1 and total \$5231.34, well over Petitioner's \$3,115.98 deductible.

CONCLUSIONS OF LAW

1. There is no jurisdiction to address the merits of Petitioner's appeal addressing his patient liability.
2. The agency correctly terminated Petitioner's Medicaid Benefits effective July 1, 2013, for being over program limits, after he was released from the Institution.
3. The agency correctly calculated Petitioner's deductible.
4. Petitioner has incurred sufficient out-of-pocket medical expenses to meet the deductible, beginning July 1, 2013.

THEREFORE, it is

ORDERED

That the agency certify Petitioner as eligible for Medicaid benefits for the deductible period that runs from July 1, 2013 to December 31, 2013. The agency shall take all administrative steps necessary to complete these tasks within 20 days.

The Petition in all other respects is dismissed.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

APPEAL TO COURT

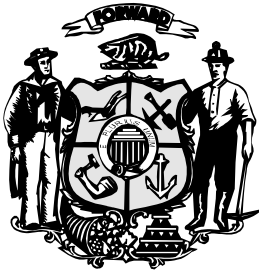
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,
Wisconsin, this 23rd day of September, 2013.

\sMayumi M. Ishii
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

Wayne J. Wiedenhoeft, Acting Administrator
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on September 23, 2013.

Racine County Department of Human Services
Division of Health Care Access and Accountability